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THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today

(1) was not written for publication in a law journal and

(2) is not binding precedent of the Board.

Paper No. 21

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

**ROY A. BLACK, PAUL A. SLEATH and
SHIRLEY R. KRONHEIM,
Junior Party,¹**

v.

**ANDREW D. HOWARD, SUSAN M. MOLINEAUX,
MICHAEL J. TOCCI, JIMMY J. CALAYCAY and
DOUGLAS K. MILLER,
Senior Party,²**

Patent Interference No. 104,058

¹ Application Serial No. 08/203,716, filed February 28, 1994, now Patent No. 5,416,013, granted May 16, 1995. Assignee: Vertex Pharmaceuticals Incorporated, Cambridge, MA.

² Application Serial No. 08/351,328, filed February 27, 1995. Assignee: Merck & Co., Inc., Whitehouse Station, NJ.

JUDGMENT

Before CAROFF, DOWNEY, and ELLIS, Administrative Patent Judges.

ELLIS, Administrative Patent Judge.

JUDGMENT

The senior party, ANDREW D. HOWARD, SUSAN M. MOLINEAUX, MICHAEL J. TOCCI, JIMMY J. CALAYCAY and DOUGLAS K. MILLER has filed a concession of priority which, pursuant to 37 CFR § 1.662(a), is treated as a request for entry of an adverse judgement as to all the claims which correspond the count.

Accordingly, JUDGMENT as to the subject matter of count 1 in issue is hereby awarded to ROY A. BLACK, PAUL A. SLEATH and SHIRLEY R. KRONHEIM, the junior party. Accordingly, party ANDREW D. HOWARD, SUSAN M. MOLINEAUX, MICHAEL J. TOCCI, JIMMY J. CALAYCAY and DOUGLAS K. MILLER is not entitled to a patent

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containing claims 1 through 4, 6, 7, 20 and 21 corresponding to count 1. On this record, party BLACK is entitled to their U.S. patent 5,416,013, containing claims 1 through 3.

MARC L. CAROFF)	
Administrative Patent Judge)	
)	
)	
)	BOARD OF PATENT
MARY F. DOWNEY)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
)	
)	
)	
JOAN ELLIS)	
Administrative Patent Judge)	

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